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UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

* * *

CANDICE KATIE TOWNER.

Plaintiff,

v.

FREDERICK OMOYUMA SILVER,

Defendants.

Case No. 2:19-CV-00636-JAD-EJY

ORDER and REPORT AND RECOMMENDATION

RE: Motion to Extend Time to File Second Amended Complaint (ECF No. 5)

Before the Court is Frederick Omoyuma Silver's ("Defendant") Motion to Extend Time to File Second Amended Complaint (ECF No. 5) submitted on January 2, 2020. Defendant misrepresents himself in the caption of this matter by showing himself as Plaintiff rather than Candice Towner as Plaintiff. Defendant has initiated no claims in this court and therefore has no basis to seek an extension to file an amended claims. Instead, the Court granted Plaintiff's Application to Proceed In Forma Pauperis on August 16, 2019 (ECF No. 4), dismissed Plaintiff's

Complaint without prejudice, and gave *Plaintiff* an opportunity to file an amended complaint within

30 days of the August 16, 2019 Order. To date, the Plaintiff, Candice Towner, has not filed an

amended Complaint and, as such, the Court recommends dismissal with prejudice of Plaintiff's

Complaint.

ORDER

IT IS HEREBY ORDERED that Defendant's Motion (ECF No. 5) is denied as moot.

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REPORT AND RECOMMENDATION

IT IS HEREBY RECOMMENDED that this matter be dismissed with prejudice as Plaintiff failed to file a complaint establishing diversity or federal subject matter jurisdiction and has not filed an amended complaint since the August 16, 2019 Order providing her an opportunity to do so.

DATED: January 6, 2020

ELAYNA J. YOUCHAH

UNITED STATES MAGISTRATE JUDGE

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. In 1985, the Supreme Court held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). The Ninth Circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).